



# **THE LAW OF FORCED MIGRATION**

**LAW 547HIF**

**Fall 2005**

**VOLUME I**

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PROTECTED PERSON		
CONVENTION REFUGEE	PERSON IN NEED OF PROTECTION	PERSON IN NEED OF PROTECTION
WELL-FOUNDED FEAR OF PERSECUTION (PURSUANT TO THE REFUGEE CONVENTION)	RISK TO LIFE or RISK OF CRUEL AND UNUSUAL TREATMENT OR PUNISHMENT	DANGER OF TORTURE (WITHIN THE MEANING OF THE CONVENTION AGAINST TORTURE)
1. IDENTITY		
<input type="checkbox"/> Name / Age / Gender / Family / Occupation / Ethnicity / Nationality <input type="checkbox"/> Credibility assessment with respect to identity documents		
2. COUNTRY / COUNTRIES		
<input type="checkbox"/> Country/countries of citizenship, OR <input type="checkbox"/> Country/countries of former habitual residence		
3. EXCLUSION		
<input type="checkbox"/> Possible exclusion pursuant to articles 1E or 1F of the <i>Refugee Convention</i>		
4. HARM FEARED: PERSECUTION	4. HARM FEARED: RISK TO LIFE or CRUEL AND UNUSUAL TREATMENT OR PUNISHMENT	4. HARM FEARED: TORTURE
<input type="checkbox"/> sustained or systemic violation of fundamental rights <input type="checkbox"/> persecution versus discrimination <input type="checkbox"/> persecution versus prosecution	<input type="checkbox"/> violation of fundamental rights <input type="checkbox"/> risk not caused by inability of the country to provide adequate health or medical care <input type="checkbox"/> risk not faced generally by other individuals in or from the country <input type="checkbox"/> lawful sanction exception: the risk is not inherent or incidental to lawful sanctions (international standards)	<input type="checkbox"/> an act by which severe physical or mental pain or suffering is intentionally inflicted <input type="checkbox"/> lawful sanction exception: the risk is not arising from, inherent in or incidental to lawful sanctions (international standards)
5. AGENT OF HARM	5. AGENT OF HARM	5. AGENT OF HARM
<input type="checkbox"/> state or non-state agent	<input type="checkbox"/> state or non-state agent	<input type="checkbox"/> inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity
6. REASON FOR HARM: NEXUS	6. REASON FOR HARM:	6. REASON FOR HARM: PURPOSE
<input type="checkbox"/> race <input type="checkbox"/> nationality <input type="checkbox"/> religion <input type="checkbox"/> political opinion <input type="checkbox"/> particular social group	<input type="checkbox"/> not applicable	<input type="checkbox"/> the severe pain or suffering is inflicted for such purposes as: <ul style="list-style-type: none"> <li>▪ obtaining information or confession</li> <li>▪ punishment, intimidation, coercion</li> <li>▪ any reason based on discrimination</li> </ul>
7. RISK OF HARM	7. RISK OF HARM	7. RISK OF HARM
<i>Standard: "serious possibility or reasonable chance of persecution"</i> <input type="checkbox"/> risk is personal <input type="checkbox"/> forward-looking assessment <input type="checkbox"/> subjective fear of persecution is objectively well-founded <input type="checkbox"/> claimant must show that state protection is not available	<i>Standard: "serious possibility or reasonable chance of death or of cruel and unusual treatment or punishment"</i> <input type="checkbox"/> risk is personal <input type="checkbox"/> forward-looking assessment <input type="checkbox"/> claimant must show that state protection is not available	<i>Standard: "serious possibility or reasonable chance of torture"</i> <input type="checkbox"/> risk is personal <input type="checkbox"/> forward-looking assessment <input type="checkbox"/> danger of a single instance of torture is sufficient <input type="checkbox"/> the availability of state protection affects the risk assessment
8. INTERNAL FLIGHT ALTERNATIVE (IFA)	8. INTERNAL FLIGHT ALTERNATIVE (IFA)	8. INTERNAL FLIGHT ALTERNATIVE (IFA)
<input type="checkbox"/> no serious possibility of persecution in the IFA <input type="checkbox"/> IFA is <i>reasonable</i>	<input type="checkbox"/> no serious possibility of death or of cruel and unusual treatment or punishment in the IFA <input type="checkbox"/> IFA is <i>accessible</i>	<input type="checkbox"/> no serious possibility of torture in the IFA <input type="checkbox"/> IFA is <i>reasonable</i>
9. CESSATION / COMPELLING REASONS		
<input type="checkbox"/> Before changed conditions – the claimant was a victim of harm. <input type="checkbox"/> After changed conditions – no serious possibility of harm in the future. <input type="checkbox"/> Are there compelling reasons, arising out of past harm, to grant protection?		